

Art Unit: 1614

DETAILED ACTION

The amendment filed on 9/23/2010 is acknowledged. Claims 1-4, 6, 8, and 10-28 are currently pending. The restriction requirement as set forth in the Office action mailed on 8/29/2008, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn.** Withdrawn claims 12 and 26-28 are rejoined.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Timothy Tracy on November 24, 2010.

Claims are amended as follows:

In claim 1, line 3, delete [the N-oxide forms, the addition salts and the stereo-chemically isomeric forms] and replace with --an N-oxide form, a pharmaceutically acceptable salt or a stereo-chemically isomeric form--.

In claim 4, lines 1-2, delete [compound No 5, compound No 9, and compound No 2] and replace with --the group consisting of compound 5, compound 9, and compound 2--.

In claim 4, line 5, delete [.] after compound 1 and replace with --,--.

In claim 4, line 6, delete [and the N-oxide forms, the addition salts and the stereo-chemically isomeric forms] and replace with --an N-oxide form, a pharmaceutically acceptable salt, or a stereo-chemically isomeric form--.

In claim 12, delete [of formula (I) with a chemotherapeutic agentaryl is phenyl or phenyl substituted with halo, C₁₋₆alkyl or C₁₋₆ alkyloxy] from line 1 to the last line of claim 12 and replace with --with a chemotherapeutic agent wherein said compound is a compound of claim 1--.

Cancel claims 8, 10-11, 13, and 17-25.

Conclusion

Claims 1-4, 6, 12, 14-16, and 26-28 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BONG-SOOK BAEK whose telephone number is 571-270-5863. The examiner can normally be reached 9:00-6:00 Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 1614

Bbs

/Ardin Marschel/
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